

## Guidance on Private School/Home School Evaluation Requests Parent Requests for Evaluation

The **first** point of clarification:

**300.306 Determination of eligibility.** This reg applies to ALL potential categories of disability. Under (b) *Special rule for eligibility determination.* A child must not be determined to be a child with a disability under this part---(1) if the determinant factor for that determination is--(i) Lack of appropriate instruction in reading, including the essential components of reading instruction (as defined in section 1208(3) of the ESEA); (ii) Lack of appropriate instruction in math; or (iii) Limited English proficiency.

Note: The concept of this reg has been on the books, but now reading instruction is redefined closer to the NCLB requirements that have established research based instruction delivered by appropriately trained personnel.

The **second** point of clarification is in regard to new “Additional Procedures for Identifying Children With Specific Learning Disabilities”, Section 300.307 through 300.311. Under **300.309 Determining the existence of a specific learning disability.** (b) **To ensure that underachievement in a child suspected of having a specific learning disability is not due to lack of appropriate instruction in reading or math, the group must consider, as part of the evaluation described in 300.304 through 300.306—**

(1) **Data that demonstrate that prior to, or as a part of, the referral process, the child was provided appropriate instruction in regular education settings, delivered by qualified personnel; and**

(2) **Data-based documentation of repeated assessments of achievement at reasonable intervals, reflecting formal assessment of student progress during instruction, which was provided to the child’s parents.**

(c) **The public agency must promptly request parental consent to evaluate the child to determine if the child needs special education and related services, and must adhere to the timeframes described in 300.301 and 300.303, unless extended by mutual written agreement of the child’s parents and a group of qualified professionals, as described in 300.306(a)(1)–**

In consideration of the new regulations, guidance on the issues of private/home school referrals and parent requests for evaluation is being offered in question and answer format on page two and three. Local districts must strive to implement the new regulations in a reasonable manner while fulfilling the intent of the law. Referrals from the private sector, whether it is a private school or a home school, require some interpretation of the intent of the regulations prior to implementation. A written parent request also requires some interpretation of the new regulations.

## Frequently Asked Questions

### Private School/Home School Referrals

**A private school (or home school) wants an evaluation of a student to determine educational need. The referral appears to be for the SLD category. How do we handle this situation? Do we have to become involved in interventions and progress monitoring in the private school or home school?**

First, 300.306 states that a child cannot be determined eligible for services if a lack of appropriate instruction in reading or math or limited English proficiency is the determinant factor in the educational difficulties. That regulation applies to any type of referral and it requires the local district to examine and collect data on the instructional practices being used for that child.

The local district is responsible for conducting child find and completing comprehensive assessments on children referred for evaluation. Regarding referrals for Specific Learning Disabilities, evidence of prior interventions is required for students referred for an evaluation from a private school or home school. *The local district can do one of two things.* They can accept less formalized intervention data from the private school or home school setting, or they can assist the private school/home school in strategies for collecting valid data based on interventions implemented prior to the referral or during the evaluation period. If the local district refuses to evaluate the child due to lack of information, a prior written notice must be completed. If a district accepts the referral, but then later chooses not to qualify a student because lack of appropriate instruction cannot be ruled out, parents may exercise their right to an independent evaluation or initiate due process.

Local districts should educate private/home schools and parents in their jurisdiction regarding these new regulations. Working with private/home schools and parents regarding the type of documentation that will satisfy the intent of the regulations will prevent misunderstandings and allow for the accurate identification of students with disabilities.

## **Parent Requests for Evaluation**

**How does a local district implement interventions if a parent requests immediate referral for special education evaluation?** During the 40 school day timeline that begins with the receipt of a written request for evaluation, the school should collect data on the appropriateness of the child's current curriculum, the implementation of that curriculum, and any interventions implemented prior to the request. Then the school must immediately begin interventions and the formal data collection process (if not already in place). If interventions are put into place and the child begins making significant progress, the school should meet with the parent and decide whether or not to extend the evaluation timeline. This may be done with a formal extension as outlined in 300.309(c). This regulation requires any extension of the timeframe be extended only by mutual written agreement of the child's parents and a group of qualified professionals. If the child has made only minimal or no progress, the evaluation must be completed within the 40 school day timeframe. **Unless extended by mutual written agreement\*, the evaluation timeframe from written request remains 40 school days.**

\* A timeline waiver request form is available on the Division's website under assessment.

***The Division of Special Education will be issuing additional guidance and technical assistance as local districts work to fully implement the new regulations.***

***July 30, 2008***

***Division of Special Education***